

**PEOPLE'S HOMESITE & HOUSING CORPORATION,
PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION
AND ESTRELLA ALBA TITONG, RESPONDENTS.**

G.R. No. L-18246. October 30, 1964

Ponente: DIZON, J.

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DIZON, J.:

Petition filed by the People's Homesite & Housing Corporation for the review of the decision of the Workmen's Compensation Commission in RO3-VC Case No. 242 ordering it to pay Estrella Alba Titong the sum of P2,387.84 as compensation for the death of her husband, Cesar Titong, plus P200.00 as burial expenses.

It is not denied that Titong was employed as checker by petitioner at a weekly salary of P35.50. In the afternoon of July 10, 1956, while checking the cement that was being loaded on a truck, Titong and one Federico Magalang, also an employee of petitioner, engaged in a heated argument which developed into a fist-fight between them. In the course thereof, Titong was hit on the eye and fell to the ground on his back, his head hitting a hollow block. After receiving emergency treatment at a hospital, he reported for duty the following day and worked continuously until July 17, 1956 when he complained of severe pains in the head. He was brought to and confined at the Quirino Labor Hospital, but as his condition worsened, he was transferred to the San Lázaro Hospital where he lay unconscious until his death on August 25 of the same year. A post mortem examination made by the National Bureau of Investigation revealed that death was due to "toxemia II to abscess of the brain and bed sore." The amount of P211 was spent for his burial.

On January 6, 1958 Titong's widow, herein respondent Estrella Alba Titong, filed with the Regional Office No. 3 of the Department of Labor, a claim for compensation under Act 3428 against petitioner. Within the reglementary period, the latter filed an answer denying the material of averments of the claim and alleged, by way of affirmative defenses, that (1) the claim for compensation had already prescribed for failure of the deceased to inform petitioner of the injury within 2 months after it had been sustained, and for failure of his dependents to file a claim against it within 3 months after his death, as provided in sec. 24 of the Workmen's Compensation Act, and (2) that the accident resulting in the death of Titong did not arise out of and in the course of his employment with petitioner because the deceased suffered injury through his own notorious negligence.

After due hearing, the chief hearing officer found respondent's claim compensable under Act 3428 and made the corresponding award of compensation. Petitioner filed a petition for review with the Workmen's Compensation Commission, alleging that the hearing officer erred in not finding (1) that the deceased provoked and started the fist fight which subsequently resulted in his death and that, therefore, his death was due to his own notorious negligence and (2) that the claim had prescribed.

On January 31, 1961 the Commission rendered the appealed decision affirming that of the hearing officer and, as said Commission denied petitioner's motion for reconsideration filed subsequently, the latter took the present appeal and insists that, as the injuries sustained by the deceased Titong—resulting in his death—were due to his

having played a practical joke on his co-worker, Federico Magalang, which joke was not connected at all with the performance of his duty, such injuries and resulting death may not be regarded as having arisen out of, and in the course of, his employment; and that claimant's cause of action had prescribed because of her failure to comply with the provisions of Section 24 of Act No. 3428, as amended.

We find petitioner's first contention to be without merit.

The case before Us is similar in many respects to that of *La Mallorca Taxi vs. Guanlao, et al.*, 100 Phil., 793, January 30, 1957, where, according to the facts, Guanlao was shot to death by a co-employee who had deeply resented the former's hiding the soup belonging to the latter. In deciding the case We said that, while Guanlao, with his joke, offended and led his co-worker to assault him, said circumstance was not sufficient to charge him with such gross negligence as to make his death not compensable.

Upon the other hand, an injury is said to arise in the course of employment when it takes place within the period of the employment, at a place where the employee reasonably may be, and while he is fulfilling his duties or is engaged in doing something incidental thereto (page 193, *Larson, Workmen's Compensation Law*, 1953) (*Murillo vs. Mendoza*, 66 Phil. 689). As in this case it is not denied that Titong suffered the injury resulting in his death within the premises of his employer and while he was fulfilling his duties as checker, the conclusion is inescapable that such injury arose in the course of his employment. In *Batangas Transportation, etc. vs. Josefina Vda. de Javier*, G.R. No. L-7658, promulgated on May 8, 1956, We said that once it is proven that the employee died in the course of his employment, the legal presumption, in the absence of substantial evidence to the contrary, is that the claim for compensation comes within the provisions of the Compensation Law. In the present case, no sufficient evidence appears in the record to take the claim under consideration beyond the purview of the Compensation Law, either because the injury that resulted in the death of Titong did not arise in the course of his employment or that it was due to his own gross or notorious negligence.

Petitioner's claim that it did not have knowledge of the injury until more than one year after Titong's death, is without merit. The Employer's Report of Accident duly accomplished and submitted by petitioner's Chairman and General Manager, Vicente Orosa, shows conclusively that the plant superintendent, Dr. Floresca, came to know of said accident or injury on July 10, 1956, the very date when it occurred.

Upon the second issue, namely, whether or not the claim for compensation had already prescribed when it was filed, pursuant to Sec. 25 of Act 3428—We have already ruled in *Martha Lumber Mill vs. Lagradante, Inc., et al.*, 99 Phil., 434 that the failure of the petitioner to submit the required employer's report of accident or sickness within the time prescribed in said act constituted a waiver of the defense that the claim for compensation was not filed within the statutory period.

PREMISES CONSIDERED, the appealed judgment is affirmed, with costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Paredes, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.

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